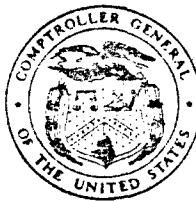


DECISION

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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-199594

DATE: June 17, 1981

MATTER OF: Edmund J. Vandermillen - House-hunting trip in excess of 6 days

DIGEST: Employee's and wife's house-hunting trip planned to be completed within 6 days was extended to 7-1/2 days by circumstances beyond their control. Per diem may not be allowed for more than 6 days. FTR para. 2-4.2 prohibits payment of expenses by Government for more than 6 days, including travel time. Regulation is not arbitrary capricious or contrary to law and no basis can be found to justify payment of additional 1-1/2 days expenses.

The issue presented is whether per diem may be authorized for that portion of a house-hunting trip which extends beyond six calendar days due to circumstances beyond the employee's control.

Mr. C. E. Tipton, Director, Fiscal and Accounting Management, Forest Service, Department of Agriculture, asks whether Mr. Edmund J. Vandermillen may be paid for one and one-half days per diem, in addition to the 6 days for which he has already been reimbursed, for a house-hunting trip incident to his permanent change of station from Bemidji, Minnesota, to Philadelphia, Pennsylvania. Mr. Vandermillen and his wife made a househunting trip to Philadelphia on June 2, 1979, and were scheduled to return within 6 days on June 8, 1979. However, when the day arrived for their return to Bemidji, DC-10 airplanes were grounded by the Federal Aviation Administration for safety reasons and it was impossible for the travelers to leave at the scheduled time. The airline was not able to get the employee and his wife a flight until the following day, June 9, 1979, and this caused them to spend 7-1/2 days on their house-hunting trip. The Forest Service denied the employee's claim for the additional 1-1/2 days since the regulations allow only 6 days for house-hunting trips.

The authority for a house-hunting trip at Government expense for a transferred employee and his wife is found in section 5724a(a)(2) of title 5,

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United States Code. This statute provides that the expenses of such a trip may be paid in accordance with regulations prescribed by the President and to the extent considered necessary and appropriate, as provided in the regulations. The President has delegated his authority to the Administrator of General Services (section 1(7) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747) who has exercised it in the Federal Travel Regulations (FTR), (FPMR 101-7) (May 1973). The pertinent provision of these regulations is in FTR para. 2-4.2 and is as follows:

"In no instance shall the period of the round trip at Government expense be allowed in excess of 6 calendar days, including travel time."

Under the above-quoted regulation, the allowable period of travel at Government expenses is limited to 6 calendar days. The Forest Service recognizes this, but states that Mr. Vandermillen's case is unique and payment for an additional 1-1/2 days should be approved because his return on the sixth day was prevented by an order of a Federal agency.

We disagree. The regulation is not arbitrary, capricious, or contrary to law. It is clear on its face and is clearly applicable to the travel in question here. Thus, even though the delay in the return trip in the present case was clearly beyond the employee's control, we find no basis upon which to justify payment of the additional 1-1/2 days expenses. See B-167193, December 15, 1969; B-170594, September 16, 1970.

Therefore, the claim of Mr. Vandermillen for per diem for himself and his wife for any time in excess of 6 calendar days, including travel time, may not be allowed.

Milton J. Fowler

Acting Comptroller General
of the United States